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Committee on the Rights of the Child
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Consideration of reports of States parties

List of issues in relation to the report submitted by Cyprus under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Addendum

Replies of Cyprus to the list of issues*

[Date received: 6 July 2017]

* The present document is being issued without formal editing.

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Recent developments

1. The Ministry of Defence notes that the National Guard Law as repeatedly amended, most recently in 2016, inter alia, authorises the Council of Ministers to decide on the duration of military service in the National Guard. Following relevant Decisions of the Council of Ministers, dated 25.2.2016 and 5.9.2016, the duration of the compulsory military service of conscripts was reduced from 24 months to 14 months and this reduction has been implemented gradually. The military service currently in force is 14 months for both conscripts and volunteers.

2. It is also noted that, the Minister of Defence has decided that from 2018 onwards, the two annual National Guard enlistments (January and July) will be limited to a single one, in July. As a consequence of this decision, only persons aged 17 ½ years old and over will be obliged to enlist for compulsory (as opposed to voluntary) service in the National Guard. Volunteers for military service still have to be at least 17 years old and over, however their numbers, due to the new legislation, were reduced, becoming negligible.

Questions and answers

1. In view of the current wording of the declaration made by the State party upon ratifying the Optional Protocol, please clarify whether 17-year-old members of the armed forces could be deployed to areas in which hostilities are taking place.

3. The Republic of Cyprus does not exclude the deployment of members of the armed forces aged 17-18 years old to an area in which hostilities could take place, in line with point 5 of the relevant Republic of Cyprus Declaration. The position of the Republic of Cyprus is explained in detail in paragraphs 5 and 8 (b, c) of the First Report. In addition to this Declaration, it is noted that though there is currently no fighting in the Republic of Cyprus, the status quo arising from the 1974 Turkish invasion and the ongoing occupation of 36.2% of its territory persists, entailing a precarious security situation with a densely militarized occupied area and ongoing human rights violations.

4. It is also significant to note that the numbers of minors enlisted for military service (including voluntary enlistments) between the years 2012-2016 are diminishing, both in absolute numbers, and as a percentage of total enlistments per year. In addition, it is further envisaged that, as a consequence of the decision of the Minister of Defence for the abolition of January's enlistment, from 2018 onwards, the vast majority of conscripts serving their military service will be aged 17 ½ years old and over.

2. Please provide updated and detailed information on the measures taken to disseminate the provisions of the Optional Protocol, and indicate whether particular efforts have been made to reach professional groups, children and the general public.

5. The Optional Protocol has been posted on the website of the Ministry of Defence (MoD). The National Guard General Staff (NGGS) has been requested to inform, both military officers/junior officers and conscripts, on the content of the Optional Protocol. The Professional Associations of military officers have also been informed accordingly. Other relevant Ministries and Departments (i.e. Ministry of Education and Culture, Social Welfare Department, Asylum Service, Immigration Department) have been requested to inform teachers and students, welfare officers, asylum officers, immigration officers and other professionals, respectively, about the provisions of the Optional Protocol, which can be found on the MoD's website. Furthermore, the MoD is planning to disseminate the provisions of the Optional Protocol to the general public, in collaboration with the government's Press and Information Office, and NGOs working in the field of children/minor rights.

5. Please provide updated information on whether any training specifically on the Optional Protocol has been provided to professionals working for or with children who are likely to have been involved in armed conflict, such as police officers, immigration officials, judges and members of the armed forces.

6. The MoD and the NGO's are planning to organize such training in collaboration with the Cyprus Police Academy, the Public Administration Academy and the Security & Defence Academy of the MoD. The drafting of the training programme will also involve the Social Welfare Services Department and the Asylum Service, which are the front line Government Agencies in this respect, that may identify children falling under such a category, first and provide us with a profile of these children. The training programme would target police officers, immigration officials, asylum officers, judges and army officers.

6. Please provide updated information on any efforts made to collect data on the number of victims of offences under the Optional Protocol among refugee and asylum-seeking children living within the jurisdiction of the State party.

7. The competent authority of the Republic of Cyprus, which is the Asylum Service, does not collect such data. However, if during the Refugee Status Determination procedure, during which the Social Welfare Services Department is also present as the guardian of the minor, such information appears, then the necessary rehabilitation or psychological or other support is provided by either the competent Government Departments or NGO's. All information revealed during the relevant interview with the minor is strictly confidential and the best interest of the child concerned, is always attributed the status of a priority consideration.

9. Please provide detailed information on:

(a) The school visits to military units of the National Guard and the type of information provided to pupils during these visits;

(b) The type of information provided to 17-year-old recruits and volunteers and whether they are informed about their rights, including those under the Optional Protocol.

(a) Every year, the Ministry of Education and Culture organises school visits to military units of the National Guard. The Ministry encourages and supports these visits, recognizing their value for final year pupils, especially boys who will soon join the National Guard for their military service. The programme of the visits is prepared by the MoD and visits take place, usually at the military training centers, taking, however, into consideration, the corresponding requests by the schools.

8. On average, 5,500 final year boys and girls, from some 55 Upper Secondary Schools, visit military units every year. These visits are scheduled to take place usually in February and March. During these visits pupils share the work experience of professional army officers, they are given professional guidance and general information about the mission and organization of the National Guard, and also specific information on new recruits and volunteers. Also information is provided about everyday life in the National Guard and pupils have the chance to ask any relevant questions. More specifically, pupils visit the living quarters, the dining areas, the areas where training takes place, and they also have the chance to see the various weapons and weapon systems (armaments exhibition). Furthermore, younger pupils from additional 22 Primary and Secondary schools (approx.), visit military units every year.

9. In addition, Officers of the National Guard visit Secondary Schools and organize meetings and seminars in order to inform pupils about the military environment and the military profession.

10. Prior to and during their recruitment, all conscripts and volunteers, regardless of their age, receive relevant documentation on their rights, the recruitment and selection process (as special forces, cadets, etc.), administrative procedures followed (cited in annex III to the Republic of Cyprus First Report), on the general operating rules of the National

Guard, and information about everyday life in the National Guard and general issues concerning the fulfillment of their military obligations. They are also given information about health care in the army and information on the point system applied for the selection process (depending on the composition and other circumstances of their family) for the various divisions of the army (i.e. navy, air force, infantry/artillery). Additional information about the conscripts' rights can be found in the information booklet (which covers inter alia, monetary allowances, leave of absence, sick leave, etc.) posted on the MoD's and NGGS' websites. On the MoD's website the Optional Protocol is also posted.

11. Furthermore, following the recent decision of the Council of Ministers for the reduction of military service to 14 months (instead of the previous 24), the MoD has introduced a set of incentives to conscripts for making time in the National Guard more beneficial for themselves and issued a relevant leaflet, informing them about these benefits, such as:

- Facility to register and follow a distance learning Degree (in collaboration with the Open University)
- Scholarship programmes for Higher Education
- Youth entrepreneurship and innovation programme (innovative ideas are rewarded and supported to become business initiatives/start ups)
- Vocational training programme (to facilitate young people's integration into the labour market)
- Academic and vocational guidance programme
- First aid programme
- Physical training and self-defence programmes
- Free bus transport (to and from military units)

12. In addition, conscripts are informed that, the National Guard Law, as amended in 2016, provides for the operation of a Consultative Committee, which is responsible for examining requests by recruits for their discharge from the National Guard or for the reduction of the duration of their military service, due to special family or economic circumstances and which also advises the Minister on relevant matters, as the authority who takes the final decision, accordingly. Furthermore, a National Guard Order provides for the functioning of another Committee, responsible for examining complaints made by conscripts, concerning their selection in the various divisions of the army (i.e. navy, air force, infantry/artillery) and their requests for transfer to other units of the National Guard, due to personal, family or economic circumstances. Finally, information on the provisions of the Optional Protocol will be incorporated in the training programme of new conscripts.

6. Please provide detailed information on the centres where 17-year-old conscripts receive their military training. In so doing, please also elaborate on the training received by instructors, including the training they receive on the Optional Protocol, and indicate whether conscripts have access to a mechanism that allows them to submit complaints in complete confidence.

13. All conscripts and volunteers receive the same training at the Military Recruiting/Training Centres, irrespective of their age.

14. The recruitment and training of new conscripts takes place in three Military Recruiting/Training Centres in Larnaca, Limassol, and Paphos. All three Military Recruiting/Training Centres have a maximum capacity of 5,000 instructors and trainees in total. The initial training, that lasts three weeks, constitutes the basic military training, which covers military marching and the acquiring of military survival skills, as well as, handling light weapons skills.

15. At the Military Recruiting/Training Centers, the new recruits go through standard procedures, such as:

- conscripts are divided in teams consisting of ten persons

- a committee checks all personal belongings conscripts brought with them, for security reasons
- a medical committee checks the state of their health
- conscripts submit a written Declaration of their choice concerning the various divisions of the National Guard including the special forces
- a committee interviews each conscript to identify any possible personal or family circumstances that may affect his training.

16. All instructors are professional army officers/junior officers, who are graduates of military schools. They receive one week's training, specifically on instructing and guiding as well as treating new conscripts. They also receive information and instructions on how to smoothly implement the training programme of the new conscripts and their specific roles in it. In accordance with recent instructions, all officers/junior officers will be provided with information on the provisions of the Optional Protocol. More specifically, the Optional Protocol will be incorporated in their training.

17. Furthermore, during their military service, including recruitment, conscripts may file a complaint and report a problem that may concern sensitive personal circumstances to their commanding officer, in complete confidentiality.

18. New conscripts are informed of their right to utilize the mechanism in place, that permits them to request a personal audition with their commanding officer with regard to every personal or family problems in complete confidence. There is also a complaints box in every unit, which can be used to file any kind of complaint. All such complaints are taken into consideration whether signed or not.

7. (a) Please provide additional information on the 68 cases concerning crimes by underage conscripts that were forwarded to the Attorney General of Cyprus between 2010 and 2014.

19. Both the Criminal Code and the Military Criminal Code apply to all conscripts undergoing their military service, from the date of their enlistment until their discharge, equally and irrespective of their age. Pursuant to the provisions of the Military Criminal Code, 68 cases were forwarded to the Attorney General of the Republic (Military Attorney's office), between the years 2010-2014, concerning conscripts who were aged 17-18 years old at the time of committing the crimes, that involved crimes such as desertion, abandonment of garrison without permission, found sleeping at a guard post, disobedience, transgression of a military order, physical assault, aggression and aggression causing a real physical damage. All 68 cases were investigated by the NGGS and 67 of them were archived by the Military Attorney, based on his discretionary powers. One of the cases, concerning the abandonment of an assigned post without permission, was sent to the Attorney General of the Republic (Military Attorney's Office) in order to be tried. The person involved was sentenced to a fine of the amount of €1000, by the Military Court.

20. Furthermore, between 2015 and 2016, 29 new cases occurred concerning crimes under the Military Criminal Code by underage conscripts, 27 of which were forwarded to the Attorney General (Military Attorney's Office) for consideration. Already 17 of them were archived by a decision of the Military Attorney and the examination of the rest is still pending.

7. (b) Please also indicate whether the State party is taking any measures to ensure that children in conflict with the law, whether military or civil law, are always dealt with within the juvenile justice system.

21. There are no juvenile courts in the Republic of Cyprus. Minor offenders are prosecuted in the District Courts, Assize Courts or Appeals Court, as the case may be. If the minor is a witness in a criminal trial, the provisions of the Witness Protection Law 2001 apply and is considered a witness in need of assistance.

22. The Witness Protection Act 2001 provides, inter alia, that a witness in a criminal procedure, not having reached the age of 18 years, is in need of assistance. There are also provisions on how the minor testifies in Court.

23. More specifically, the Court may, at the request of either party in criminal proceedings or on its own accord, order a witness to be considered as a witness in need of assistance.

24. When the Court orders a witness to be considered as a witness in need of assistance, the Court shall determine the measures which, in the judgment of the Court of Justice, will improve the quality of testimony given by the witness and prescribe the measures to be applied in relation to the testimony given by the witness.

25. For the purpose of protecting witnesses in need of assistance, the Court may order that:

(a) All or part of the case is held in camera (behind closed doors). In such a case, the Court may order that no person to be determined by the Court should be present at the Court. The Court cannot exclude the accused, the lawyers of the parties and any translator or other person appointed to assist the witness.

(b) The testimony of any witness in need of assistance or other person whose testimony may be adversely affected, shall be taken in the absence of the accused following instructions and arrangements made so that the accused receives knowledge of the witness's testimony and counter-examines him or her.

26. In addition to the aforementioned, the Court may, for the purpose of witness protection, order the placement of a special partition or the use of a closed circuit television, or the use of any other means, to ensure that the accused is not visible to the witness and vice versa.

27. In order to safeguard the rights of the accused, the Court must ensure that, despite the installation of the aforementioned technological and/or other arrangements, all appropriate measures have been taken to enable the accused to listen to the proceedings and give instructions to his lawyer. In particular, the Court may order:

(a) The placement of a special partition that prevents the accused from viewing the witness during his or her testimony or oath. This partition should not prevent the Court, the lawyers of the parties and any translator or other person appointed to assist the witness from viewing the witness.

(b) The testimony of the witness who needs assistance, through a closed circuit television. The witness, while either absent from the courtroom or in case of a partition being present during the procedure, should be able to see and hear the persons who are in the courtroom, and the persons mentioned in the case should be able to see and hear the witness.

(c) Use of any other means to ensure the accused is not visible to the witness and vice versa.

28. It should be noted that the aforementioned Legislation provides that the Court may accept as primary examination the visual testimony of a witness, who is in need of assistance, as well as the rules for receiving a filmed testimony, counter-examination and re-examination.

29. It is forbidden to publish or in any way disclose the name of a person against whom an offense has been committed in violation of the Violence in the Family (Recruitment and Protection of Victims) Law 2000 and the Combating of the Persons Trafficking and the Sexual Exploitation of Minors Law 2000, as well as the content or part of the content of his or her submission.

30. It is also prohibited, under the provisions of the same Law, to publicize or in any way disclose the name or the content or part of the content of the testimony in a case involving an offense provided for in the Laws mentioned above.

31. Any person who violates the aforementioned provisions commits an offense punishable by imprisonment not exceeding three years or by a fine not exceeding three thousand pounds or both.

32. A more recent law, Law 51(I)/2016, deals with the rights, support and protection of victims of crime. More specifically, for harmonization purposes with Directive 2012/29/EU of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, on 22/04/2016, Cyprus enacted ratification Law N.51(I)/2016, which adopted the provisions of the above mentioned Directive.

33. The purpose of the Law is to enhance the protection of the victim, both in terms of procedural rights and in terms of physical and practical protection, of a person falling under any category of victim.

34. In particular, the said Law provides for the right to receive information, both from the first contact with a competent authority and when making a complaint, and the right to receive information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence. It also provides for the right to access victim support services from the moment the victim is known to the competent authorities and throughout the course of criminal proceedings.

35. Furthermore, the Law sets out the procedural rights of the victim during criminal proceedings. More specifically, it provides for the participation of a victim as a witness in criminal proceedings and also it affords to a victim, who participates in criminal proceedings, the possibility of reimbursement for expenses incurred as a result of his/her participation as a witness, as well as, for recovery of his/her assets seized in the course of criminal proceedings. The said Law also affords an enforceable right to compensation against the offender. The Law also enhances the protection of the victim in relation to his participation as a witness and the right of avoidance of contact with the offender in the course of the criminal proceedings. Additionally, a right to protection of privacy and individual assessment to identify specific protection needs is provided.

36. Where the victim is a child, the said Law includes specific provisions for the protection of child victims. In accordance with the Law, a child is defined as any person under the age of 18, and the law is applicable in criminal cases.

37. Mainly the Law prescribes the obligations of all departments/services and governmental and nongovernmental organizations vis a vis the victims of a crime, including social services and the police, while providing that the child's best interests constitute a primary consideration, which is assessed on an individual basis. More specifically, where the victim is a child, the child and the holder of its parental responsibility or other legal representative, if any, is immediately being informed of any measures or rights, available, specifically focusing on the child.

38. Also in criminal investigations, all interviews with the child victim may be audio visually recorded and such recorded interviews may be used as evidence in criminal proceedings.

39. Additionally, in criminal investigations and proceedings, in cases where the child is in need of support and protection and there is a conflict of interest between the child and parents/guardians, the child will be taken in care of the Director of the Social Welfare Services. Furthermore, in cases of unaccompanied minors, as soon as the unaccompanied minor enters the Republic of Cyprus, the child is placed under the care of the Director of Social Services Department, who acts as a guardian of the child. The Director of the Social Welfare Services Department safeguards enjoyment by the child of his/her rights, based on the best interest of the child. All children, under the care of the Director of Social Welfare Services Department, are placed in foster or institutional care.

40. Also the Law provides that measures shall be taken to ensure that the child victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology, as well as, measures allowing a hearing to take place without the presence of the public.

41. The Ministry of Justice and Public Order, recognizing the need for different treatment of juveniles in the criminal justice system, in cooperation with the Commissioner for Children's Rights, is promoting a draft bill to establish a criminal justice system designed for the needs of children, in cases where there is conflict with the law and the regulation of issues, regarding the prevention of child delinquency within the criminal justice system, according to the international legally binding instruments and standards.

42. The draft bill establishes out of court structures and procedures. It is primarily the child's interest that is taken into consideration when taking any decision that affects it directly or indirectly, and the child is involved in the taking of decisions concerning it. Criminal prosecution and detention of the child constitute the ultimate measure and is only enforced if any other measures have been tried and failed, whereas imprisonment is forbidden. In the case of criminal prosecution of a child, the case will be tried at a special juvenile court, based on the principle that child custody is the ultimate measure and alternative sanctions or measures should be imposed.

43. The draft bill is in the process of public consultation and the MoD, in co-operation with the Ministry of Justice and Public Order, will examine whether its adoption will in any way affect the Military Criminal Code to the extent that it concerns minors.

8. With reference to the information provided in the State party's report (paragraph 114) please provide updated information on any measures taken towards fully criminalizing the recruitment of children by armed groups. Please also clarify whether the legislation of the State party fully criminalizes all the offences covered by the Optional Protocol, including those committed by private security companies.

44. The Republic of Cyprus has not taken any specific legal measures to criminalise the recruitment of children by armed groups with the enactment of the Optional Protocol's ratification Law or subsequently, since the provisions of the Constitution of the Republic of Cyprus (article 21(4)), as well as specific provisions of the Criminal Code (e.g. Article 56 — Participation in an Illegal Association, Article 63 (A) — Participation in a Criminal Group, Article 92 — Possession of a Firearm with Intention of Causing Harm or Damage) and the national Law on Trafficking in Persons (60(I)/2014) (Articles (2) & (10)), already criminalise the forming, recruitment, including the recruitment of minors, and operation of armed groups as distinct from the Republic of Cyprus armed forces, irrespective of whether the persons involved are minors or not.

45. In relation to the rest of the offences included in the Optional Protocol, the Republic of Cyprus, as the Committee is already aware, has made a relevant Declaration upon signature and ratification of the Optional Protocol, which explains the position of the RoC in relation to these offences.

46. In relation to private security companies operating in the RoC, it is noted that firearms possession by guardsmen employed by such companies is prohibited under the Private Bureaus Providing Security Services Law of 2007 (125(I)/2007). More specifically, Article 18 "prohibits the issue of a permit for possession, use or acquisition or transport of explosives or ammunition or aggressive weapon or firearm to —

(a) Private guards or guards or staff member of a private security services bureau

(b) A person who has been granted a license to set up and operate a private security services bureau.

47. The above prohibition excludes the possession, use, acquisition or transfer of Category D firearms under the provisions of the Acquisition, Transfer and Import of Firearms and Non-Firearms Law."

48. Moreover, the aforementioned Law provides that private security companies are not allowed to employ people under the age of 18.

49. According to the provisions of Article 10 (1) of Law 125(I)/2007, "It is prohibited to a private security services bureau to employ, as a security guard, a person for the execution of any of the activities mentioned in subsection (2) of Article 4, except for a person that possesses a security guard's license issued by the Chief [of the Police]."

50. In addition, Article 7 (1) (a) explicitly states that:

> "No license to practice the profession of a guard or a private guard shall be granted by the Chief [of the Police] to a person who —
>
> (a) is not a citizen of the Republic or of another Member State of the EU and has not reached the age of 18 and, in the case of a male, has not fulfilled his military obligations, unless he has been legally exempted for reasons that do not concern his health and may affect the performance of his duties as a guard or a private guard."

9. Please clarify whether the State party can exercise extraterritorial jurisdiction for crimes covered under the Optional Protocol. Please also clarify whether there is the possibility of extradition for all crimes covered under the Optional Protocol in the State party.

51. The criminalisation of offences covered under the Optional Protocol are dealt with, as described in the previous paragraph (para. 8).

52. In general, extraterritorial jurisdiction applies in case an own national commits a crime under the Protocol in a foreign country, provided that certain other conditions are met or in case a crime is committed in the Republic of Cyprus by an own or a foreign national who subsequently leave the territory of the Republic of Cyprus.

53. More specifically, the Criminal Code provides that its provisions are enforceable for all crimes of the Criminal Code or any other Law of the Republic of Cyprus, committed in the territory of the Republic of Cyprus, by an own or a foreign national. In case the crime is committed in any foreign country by an own national, extraterritorial jurisdiction applies, if the said crime is punishable in the Republic of Cyprus with a sentence exceeding 2 years imprisonment, provided that the act or omission constituting the crime is also punishable in the Criminal Law of that foreign country (art. 5 (1) (d) of the Criminal Code).

54. The possibility of extradition for crimes under the Optional Protocol, (i.e. the procedure of extradition claims), is established in case there is a relevant bilateral agreement, between the Republic of Cyprus and a third country concerned, in place. Currently the Republic of Cyprus has in force such bilateral extradition agreements with Egypt, USA and Libya. Additionally, the procedure of extradition claims is also established by the European Convention on Extradition of the Council of Europe and its two Optional Protocols, which have been ratified by the Republic of Cyprus with Laws 97(I)/1970, 23(I)/1979 and 17(I)/1984, respectively. Concerning the extradition claims between member states of the European Union, the extradition procedure is established by the «European Arrest Warrant and the Surrender Procedures Between Member States» Law (133(I)/2004).

55. Finally, the Refugee Law does not include any provisions for the establishment of extraterritorial jurisdiction. In relation to war crimes, according to article 5 (1) (c) (i) of the Refugee Law, an applicant is excluded from being a refugee in cases there are serious reasons to believe that the applicant has committed a crime against peace, a war crime, or a crime against humanity, as defined by the international instruments covering this kind of crimes.

10. Please provide updated information on any procedures in place to identify, at the earliest possible stage, refugee and asylum-seeking children or children in migrant situations who may have been or who are at risk of being recruited and/or used in hostilities and clarify whether they are fully protected against any risk of refoulement. Please also provide detailed information on rehabilitation programmes for children affected by armed conflict.

56. As soon as an unaccompanied minor enters the Republic of Cyprus, she/he is taken in care of the Director of Social Welfare Services Department, who acts as a guardian safeguarding enjoyment of his/her rights (i.e. accommodation, care, education, health, mental health, recreation, family reunification, etc.) based on the best interest of the child. Furthermore, the Director of the Social Welfare Services Department acts as a representative of the minor during the Asylum procedure and in case it is established that it

has been or it is at risk of being recruited and/or used in hostilities, it is treated as described in the reply corresponding to question (4) above.

57. The Asylum Service considers minors as vulnerable persons and therefore takes into account their specific situation as soon as the application is completed. Thus, special reception conditions, rehabilitation services, if this is necessary (health care, psychological support) and special procedural guarantees are provided during the Asylum Procedure. In order to specify such special reception needs and to find out whether the person concerned needs special procedural guarantees, it is necessary, at any stage of the procedure, to carry out an individual assessment. The Republic of Cyprus reassures that the principle of non refoulement is fully respected. In the case of children in migrant situations, who are identified that they have been or are at risk of being recruited and/or used in hostilities, these children are considered as minor victims of trafficking under the Law of Trafficking in Persons (60(I)/2014).

58. More specifically, articles (42)-(48) of the said law, provide for the identification of and provision of assistance and support to victims of trafficking. Articles (49)-(50) constitute special provisions of the Law concerning children who are victims and provide them with additional assistance and support.